

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORMITA SADIE Y CASTRO, DEFENDANT-APPELLANT.

G.R. No. 66907. April 14, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

Found guilty of a violation of Section 4, Article II Republic Act. No. 6425[1] which prohibits and punishes trafficking in dangerous drugs, Normita Sadie y Castro appealed the judgment of the Trial Court[2] sentencing her to life imprisonment and to pay a fine of P20,000.00.

The People's evidence rests chiefly on the testimony of three members of the Constabulary Anti-Narcotics Unit (CANU) who allegedly formed part of a group that carried out a so-called "buy-bust" (entrapment) operation which caught the appellant in its toils. The facts sought to be thereby proven may briefly be summarized follows:

At about 5:00 o'clock in the afternoon of January 24, 1983 an informer known only by the nickname of "Boyot" went to CANU headquarters in Camp Crame, Quezon City, to disclose the activities of a marijuana pusher, one "Norma" of Felix Street in Pasay City. A team of agents was swiftly organized to entrap and arrest the suspected pusher. Their plan called for Boyot to pose as a marijuana buyer and make a purchase of the drug from the suspect using a twenty-peso bill and a ten-peso bill, xerox reproductions of which were made and their serial numbers recorded before they were given to him. Boyot would touch his head to signal the completion of the purchase at which time the CANU operatives, who would be unobtrusively keeping watch nearby, would swoop down and collar the suspect.[3]

The operatives then left Camp Crame for Felix Street, reaching that place as it was growing dark, at about 6:20 o'clock p.m. They deployed themselves so as to be able inconspicuously to observe Boyot make contact with the suspect at her reported residence, a two-story house fronting a vacant lot in an otherwise populous neighborhood. After a while, the operatives, from a distance of about ten (10) meters, saw the suspect emerge from the house and meet Boyot at the doorway. The two conversed briefly and then the woman disappeared inside the house, to reappear moments later with a plastic bag which she handed to Boyot. At that point, Boyot gave the pre-arranged signal and the operatives closed in and apprehended the woman. A female agent, Patrolwoman Josie Abueg, searched the suspect, now identified as the appellant, and retrieved from the right pocket of her duster the two bills earlier given to Boyot for the marijuana purchase. The bills, as well as the plastic bag and its contents, were seized, the team leader, Sgt. Buena Carreon, issuing therefor a receipt which the appellant signed in the presence of a barangay officials.[4]

The appellant was brought to CANU headquarters for further investigation; but beyond giving her personal circumstances, she refused to make any statement. Afterwards, she was taken to the inquest fiscal who conducted a preliminary investigation and later filed an information charging her with selling prohibited drugs.

Upon chemical analysis, the contents of the plastic bag given by the appellant to the informer Boyot proved to be marijuana fruiting tops.[5]

The appellant has a far different account of the events of that day. She declared that at about 2:00 o'clock p.m. on January 24, 1983, she brought her ailing child to the clinic of Dr. Antonio Reyes Acosta near the Pasay City rotunda for treatment. The physician attended to the child and prescribed medicine for her, after which the appellant took the child home, put it to sleep, and left again to borrow money from her sister-in-law to buy the medicine. The latter lent her P50.00, consisting of two (2) twenty-peso bills and one (1) ten-peso bill. Back home again, and as the appellant was waiting for her husband, some men aboard a Ford "Fiera" (a light pickup truck or van) came and entered the house on the excuse that they were looking for a certain "Tessie" whom the appellant took to be a sister-in-law who occupied one of the rooms in the house and for whom she (appellant) did laundry work. She told the men that her sister-in-law was not at home, but they apparently mistook her for the woman they were after and insisted on taking her with them.

The appellant denied having sold marijuana to anyone, as well as receiving money from Boyet in exchange for anything. She also denied that the "marked" money had been found on her person, suggesting that the bills presented in evidence were part of the money she had borrowed earlier that afternoon, which she had tucked under the pillow of her sleeping child and which the men who had entered her room must have found and taken. She claimed that she did not know how to read, having studied only up to the third grade, and that she had signed the receipt for the seized articles because she was told by the barangay chairman who witnessed her signature that the document merely stated that the narcotics agents had not taken any personal property from her house. She further claimed that she was never formally investigated in the City Fiscal's office; she had merely been brought inside a room and no one asked her about the raid, only for the name of her sister-in-law.[6]

Testifying for the appellant, her barangay chairman, Carlito B. Legaspi, declared that she had been a resident of the area for almost ten years and had no reputation for dealing in dangerous drugs.[7]

The appellant's appeal starts out, in a manner of speaking, with two strikes against it. First, as a general rule, a bare denial of guilt is insufficient to overcome positive testimony of the culpability of an accused.[8] It is also an equally sound rule, consistently adhered to, that the findings of fact of trial courts, especially those based on the testimony of witnesses, command great weight and will not ordinarily be disturbed or interfered with on appeal.[9]

Nonetheless, after a careful review of the record, the Court is of the opinion that the appellant is entitled to an acquittal. This, on the basic proposition flowing from the presumption of innocence, that the prosecution must rest on the strength of its own evidence and that it is not relieved of the onus of proving guilt beyond a reasonable doubt by the weakness of the defense.

"The defendant in a criminal case must always be presumed innocent until the contrary is proven, and in case of reasonable doubt and when his liability shall not have been satisfactorily shown he shall have the right to be acquitted, even though his innocence be doubted." [10]

Several circumstances combine to cast serious doubt on the integrity of the prosecution's version of how the appellant was caught, as it were, in flagrante delicto. The Court is, first of all, asked to believe the rather improbable account of an alleged pusher plying her trade — for which the law prescribes capital penalties — and dealing with a total stranger right in her own home. No evidence whatsoever has been presented that the appellant knew the informer Boyet even casually, or that she had ever met him before the afternoon in question. Yet, the prosecution would have it that she unhesitatingly made an illicit transaction with a person she was meeting for the first time, after only a brief parley, and at her very doorstep, in full view of every inquisitive neighbor and passerby. And when it is considered as claimed, it was for a pittance of P30.00 that she thus heedlessly risked discovery, denunciation and imposition of at least a life term, credence becomes even harder to evoke.

It is implicit in the testimony of two of the witnesses for the prosecution, Sgt. Bueno Carreon and Patrolwoman Josie Abueg, and seems to have been accepted as fact by the Trial Court, that only one so-called "poseur-buyer," the informer Boyet, was employed in the entrapment of the appellant. The third witness, however, has a different recollection. Police Officer Eddie Regalado testified that two informers posed as buyers, the other, curiously, also known only by a nickname "Pare;" that Pare, pretending that he also wanted to buy marijuana, waited outside while Boyet made his purchase, which is why the appellant, according to the witness, came out of her residence; and that one of the two was stabbed dead the following day by the appellant's husband.[11] Whether only one person, or two, posed as buyer may not be strictly relevant or material insofar as proving a single illegal sale is concerned. However, the fact that the existence of a second buyer appears to have been suppressed from the testimony or elided from the recollection of two alleged eye witnesses who had taken part in both planning and execution of the entrapment raises nagging questions. The most obvious is, who was telling the truth? If it was the third witness, Officer Regalado, why were his companions not as candid as he was about the second poseur-buyer? If Regalado lied, why did he lie and unnecessarily embellish his account, raising doubts about the veracity of his fellow operatives? None of these questions can be answered without detracting, in one way or another, from the credibility of the prosecution's account of the alleged entrapment.

The fact that the narcotics agents claimed to know their informers only by their nicknames strikes the Court as another sour note in their story, considering that at least one of them, Boyet, had been working with CANU for almost a year[12] and informers receive money for their services.[13] It is unlike officers of the law to deal so cavalierly with their sources of information as not even to concern themselves with the true names and identities of their informants.

Even as to the number of agents involved in the operation — a simple, basic fact about which there should be no uncertainty — the testimony of the agents themselves exhibits no agreement. Sgt. Bueno Carreon initially declared that there were "almost seven" in the team, naming five of them.[14] Then he proceeded to contradict himself when he declared that upon arrival in the area, the agents positioned themselves in groups of seven (in effect, that there were more than one group of seven) in order to be able to observe the informer's contact with the suspect.[15] Officer Regalado, for his part stated that two or three teams took part, five or six agents to each team, and that there were at least thirteen (13) agents in the area at the time.[16] And unless there is a clerical error in the transcript, Patrolwoman Josie Abueg had the area practically crawling with "fifty to seventy" agents.[17]

The physical evidence is equally suspect. The twenty-peso bill and ten-peso bill with which the informer Boyet allegedly purchased marijuana from the appellant, and supposedly found on her person following her apprehension, were presented in evidence as Exhibits "C" and "D", stapled to a sheet of bond paper separately marked. Exhibit "C".[18] The prosecution, it will be recalled, claimed that those bills had been "marked," that is, they had been photocopied and their serial numbers had been noted prior to being given to the informer Boyet in Camp Crame at the start of the operation.[19] The alleged xerox reproductions, made on a single sheet of paper, were identified at the trial as the prosecution's Exhibit "E" by Patrolwoman Jose Abueg.[20] Exhibit "E," however, cannot possibly be the reproduction so made because it contains the following entry: "DATE/TIME OF ARREST: 24 1845 H JAN '83," which can only refer to the date and time of the appellant's arrest, namely: 6:45 p.m. on January 24, 1983, after the operation had been carried out. Moreover, if Exhibit "E" had in fact been made prior to the start of the operation, the bills must later have been detached from the paper to which they were stapled when they were photocopied, as the exhibit itself shows, so that the informer Boyet could use them to make the marijuana purchase. Exhibit "C" however shows the original bills themselves stapled to the paper backing in exactly the same position they appear in the alleged xerox reproduction, Exhibit "E." Only legerdemain could have accomplished the feat of refastening the bills to the paper backing in an exact duplicate of the positions shown on the alleged xerox reproduction, after they had been -- of necessity, as already pointed out --

detached, given to Boyet and handled by both him and the appellant from whom they were supposedly later seized when she was apprehended and arrested.

Two of the prosecution witnesses, Sgt. Bueno Carreon and Officer Eddie Regalado testified that the plastic bag seized in the raid contained marijuana leaves.[21] In contrast, the Laboratory Examination Report, confirmed by the testimony of Nellie A. Cariaga, Forensic Chemist of the PC Crime Laboratory, who examined those contents, shows that they consisted exclusively of marijuana fruiting tops.[22] This discrepancy finds no explanation in the record.

Clearly, insofar as proving guilt beyond reasonable doubt is concerned, the evidence, both physical and testimonial, of the prosecution leaves much to be desired. The Court cannot affirm the appellant's conviction on the strength of evidence exhibiting such defects, although it is not morally convinced of her complete innocence.[23]

WHEREFORE, the decision appealed from is reversed and the appellant is acquitted on reasonable doubt, with costs de oficio.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Cruz, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] The Dangerous Drugs Act of 1972, as amended by Presidential Decrees Nos. 44 and 1675.

[2] R.T.C. Pasay City, in Criminal Case No. 83-4217-P

[3] TSN Feb. 8, 1983, pp. 4-5, 9-11, 13; TSN March 1, 1983, pp. 7-8.

[4] Id., Feb. 8, 1983, pp. 6-10, 13-16; March 1, 1983, pp. 4-8.

[5] Laboratory Examination Report, Exhibit A; TSN March 16, 1983, pp. 5-8.

[6] Appealed Decision, Rollo, pp. 101-104; TSN August 16, 1983, pp. 2-22.

[7] TSN October 18, 1983, pp. 3-5.

[8] People vs. Pasco, Jr., 137 SCRA 137; People vs. Sinaw-ay, 138 SCRA 221.

[9] Yambao vs. Tolentino, 54 Phil. 298; Olango vs. CFI of Misamis Oriental, 121 SCRA 338; People vs. Grefiel, 125 SCRA 102; Chase vs. Buencamino, Sr., 136 SCRA 365.

[10] U.S. vs. Gutierrez, 4 Phil. 493.

[11] TSN Feb 8, 1983, pp. 18-19.

[12] TSN February 8, 1983, p. 11'

[13] Id., p. 21.

[14] Id., 5.

[15] Id.

[16] Id., pp. 13-14

[17] TSN March 1, 1983, p. 7.

[18] Record, p. 108.

[19] TSN March 1, 1983, pp. 7, 8.

[20] Record, p. 108.

[21] TSN Feb. 8, 1983, pp. 6, 15.

[22] Exhibit "A," Record, p. 106; TSN March 16, 1983, p. 8.

[23] See *People v. Beltran*, 61 SCRA 246; *People v. Mirasol*, 62 Phil. 120; *People v. Perio-Perio*, 125 SCRA 1; *People v. Broqueza*, 125 SCRA 545.

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